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## Letter Ruling 78-8: Unit Investment Trust

June 8, 1978

This is in reply to your letter of May 30, requesting rulings with respect to the Massachusetts income tax consequences of a \*\*\*\*\* Unit Trust - Series 3 ("Series 3 Trust") now being organized by your client, \*\*\*\*\*.

On January 12, 1978, this office issued a ruling regarding the \*\*\*\*\* Unit Trust - Series 2 ("Series 2 Trust"). Like the Series 2 Trust, the Series 3 Trust will be organized in the form of a unit investment trust established under the laws of the Commonwealth of Massachusetts. The trustee of the Series 3 Trust will be \*\*\*\*\* and the Series 3 Trust's principal place of business will be in Massachusetts. Beneficial interests or shares in the Series 3 Trust will be represented by transferable certificates, which will be offered and sold primarily to Massachusetts residents. However, there is no requirement that certificateholders be Massachusetts residents.

The Series 3 Trust will be organized to hold bonds the interest on which is exempt from federal and Massachusetts personal income taxes. \*\*\*\*\* will act as the Sponsor of Series 3 Trust. The Series 3 Trust will invest primarily in bonds of the Commonwealth of Massachusetts, its political subdivisions, and their agencies and instrumentalities. However, bonds issued by the Government of Puerto Rico or by its authority may also be included.

The Trustee of the Series 3 Trust will not have authority to vary the original portfolio of bonds purchased by the Trust. Accordingly, under Section 301, 7701 - 4(c) of the U.S. Treasury Regulations, the Series 3 Trust will be treated as a trust for federal income tax purposes and not as an "association" taxable as a corporation. Moreover, since each Certificateholder will have the right at any time to revoke his interest in the Trust by having his certificate redeemed, the Series 3 Trust will be treated for federal income tax purposes as a "grantor trust" under Section 676(a) of the Internal Revenue Code of 1954.

Based upon the foregoing, it is ruled that:

1. For Massachusetts personal income tax purposes, the Series 3 Trust will be treated as a corporate trust under Section 8 of Chapter 62 of the Massachusetts General Laws and not as a grantor trust under Section 10(e) of Chapter 62 of the Massachusetts General Laws.

2. Interest received by the Series 3 Trust on bonds of the Commonwealth of Massachusetts and its political subdivisions, their agencies and instrumentalities, and on bonds issued by the

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Government of Puerto Rico or by its authority will not be includible in the Massachusetts gross income of either the Series 3 Trust or its Certificateholders.

3. Gain or loss on the sale or exchange of bonds of the Commonwealth and its political subdivisions, their agencies and instrumentalities, except where specifically exempted by the act authorizing issuance of the bonds, will be includible in Massachusetts gross income of the Series 3 Trust. Gain or loss realized on the sale or exchange of bonds issued by the Government of Puerto Rico or by its authority will not be includible in Massachusetts gross income of the Series 3 Trust.

4. Certificateholders of the Series 3 Trust who are subject to Massachusetts personal income taxes under Chapter 62 of the Massachusetts General Laws will not be required to include in their Massachusetts gross income distributions received from the Series 3 Trust.

5. Certificateholders of the Series 3 Trust who are subject to Massachusetts personal income taxes under Chapter 62 of the Massachusetts General Laws (a) will not be required to take into account in determining their Massachusetts gross income gain or loss realized by the Series 3 Trust on the disposition by the Series 3 Trust of a bond; but (b) will be required to take into account in determining their Massachusetts gross income gain or loss realized upon the sale or redemption of their Certificate.

Very truly yours,

/s/Laurence D. Fitzmaurice

Laurence D. Fitzmaurice  
Commissioner of Corporations  
and Taxation

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